

### **REMARKS**

Applicants have amended the claims listing the text of all claims (including withdrawn claims), in response to the Notice of Non-Compliant Amendment dated January 20, 2004.

Claims 10 and 12-22 were pending in the above-identified application. Claims 10 and 12-22 were rejected. With this Amendment, claims 23-34 were added and claims 10-22 were cancelled.

### **Objection To Claims**

Claim 12 is objected to because of the following informalities: said claim depends on itself. Applicants believe this objection is now mute, as claim 12 was cancelled.

### **Rejection of Claims**

Claims 17-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Miyasaka* (U.S. Patent No. 5,869,208) and further in view of *Tanno* (U.S. Patent No. 5,853,918). Claims 10 and 12-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Miyasaka* (U.S. Patent No. 5,869,208). Applicants believe these rejections are mute in light of the fact that claims 10-22 were cancelled and new claims 23-34 have been added. Additionally, Applicants believe that new claims 23-28 are allowable since they recite a method of producing a positive electrode active material for a non-aqueous electrolyte cell, comprising sintering the mixture at a temperature not lower than 600°C and not higher than 900°C, wherein the positive electrode active material comprises lithium composite manganese oxide having a spinel structure whose primary particle diameter is not less than 0.05 µm and not greater than 10 µm, forms an

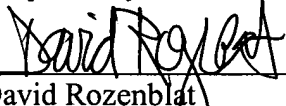
aggregate, and whose specific surface area measured by the BET method is not less than 0.2 m<sup>2</sup>/g and not greater than 2 m<sup>2</sup>/g. Applicants also believe that new claims 29-34 are allowable since they recite a method of producing a positive electrode active material for a non-aqueous electrolyte cell, comprising sintering the mixture at a temperature not lower than 600°C and not higher than 900°C, wherein the positive electrode active material comprises a lithium composite manganese oxide having spinel structure and whose primary particle diameter is not less than 0.05 μm and not greater than 10 μm, forms an aggregate, and whose specific surface measured by the BET method is not less than 0.2 m<sup>2</sup>/g and not greater than 2 m<sup>2</sup>/g. None of the above-cited references, either alone or in combination, recite such methods.

Accordingly, Applicants submit that the claim invention is neither anticipated by nor obvious over the applied references, either alone or in combination. Withdrawal of these grounds of rejection is respectfully requested.

**CONCLUSION**

In view of the remarks set forth above, Applicants respectfully submits that the present invention is in condition for allowance. Early notification to such effect is earnestly solicited. Should the Examiner have any remaining issue, Applicants kindly requests that the Examiner contact the undersigned.

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